

A. 16

1 A. KIRK

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.

10 -----X

11 DEPOSITION OF ALEX KIRK

12 New York, New York

13 August 31, 2009

14 Reported by:

15 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

16 JOB NO. 24545

1 A. KIRK

2 August 31, 2009

3 9:30 a.m.

4
5
6 Deposition of ALEX KIRK, held at Jones Day, LLP,
7 222 East 41st Street, LLP, New York,
8 New York, before Kathy S. Klepfer, a
9 Registered Professional Reporter,
10 Registered Merit Reporter, Certified
11 Realtime Reporter, Certified Livenote
12 Reporter, and Notary Public of the State
13 of New York.

1 A. KIRK

2
3 A P P E A R A N C E S:
4

5 JONES DAY, LLP

6 Attorneys for Lehman Brothers, Inc.

7 222 East 41st Street

8 New York, New York 10017-6702

9 BY: ROBERT W. GAFFEY, ESQ.

10 BRIDGET CRAWFORD, ESQ.

11 GEORGE E. SPENCER, ESQ.
12

13 BOIES, SCHILLER & FLEXNER, LLP

14 Attorneys for Barclays Capital

15 5301 Wisconsin Avenue, NW - Suite 800

16 Washington, DC 20015

17 BY: HAMISH HUME, ESQ.
18

19 CAHILL, GORDON & REINDEL, LLP

20 Attorneys for the Witness

21 80 Pine Street

22 New York, New York 10005

23 BY: DAVID N. KELLEY, ESQ.

24 JOHN O. ENRIGHT, ESQ.
25

1 A. KIRK

2 A P P E A R A N C E S: (Cont'd.)

3
4 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP

5 Attorneys for the Creditors Committee

6 51 Madison Avenue

7 22nd Floor

8 New York, New York 10010

9 BY: JAMES C. TECCE, ESQ.

10
11 JENNER & BLOCK, LLC

12 Attorneys for the Examiner

13 330 N. Wabash Avenue

14 Chicago, Illinois 60611-7603

15 BY: DAVID C. LAYDEN, ESQ.

16
17 HUGHES, HUBBARD & REED, LLP

18 Attorneys for the SIPA Trustee

19 One Battery Park Plaza

20 New York, New York 10004-1482

21 BY: SETH D. ROTHMAN, ESQ.

22 SAMUEL C. MCCOUBREY, ESQ.

23
24 Also Present:

25 PHILIP E. KRUSE, Alvarez & Marsal

1 A. KIRK

2 ALEX KIRK, called as a
3 witness, having been duly sworn by a Notary
4 Public, was examined and testified as
5 follows:

6 EXAMINATION BY

7 MR. GAFFEY:

8 Q. Mr. Kirk, good morning. My name is
9 Bob Gaffey. We met briefly before. I'm with
10 Jones Day. We are special counsel to the estate
11 of Lehman Brothers Holdings, Inc., and as I
12 guess you may know, we are spending some time
13 looking into the facts surrounding the
14 transaction in September of 2008 --

15 A. Uh-huh.

16 Q. -- through which Barclays purchased
17 some assets from Lehman.

18 Just a few ground rules. If at any
19 time you need a break, just say so. If there's
20 a question pending, I would prefer to get an
21 answer to it and then we can take break, but
22 just speak right up if you want to take five or
23 ten minutes.

24 I'm kind of a fast talker, so if I'm
25 going too fast, tell me and I'll try and slow

1 A. KIRK

2 myself down. And I'm going to ask you please to
3 wait until there's a full question asked before
4 you answer so that we can, as best we can, get a
5 clear record.

6 A. Uh-huh.

7 Q. Okay?

8 Did you have discussions with anyone
9 other than your counsel, Mr. Kelley, to prepare
10 for your deposition today?

11 A. Yes.

12 Q. With whom?

13 A. I don't remember.

14 Q. Mr. Kelley or anybody from his firm?
15 Anybody outside of his firm?

16 A. Outside his firm we met with the
17 Barclays lawyers.

18 Q. Okay.

19 A. I don't remember their names.

20 Q. And by whom are you employed, sir?

21 A. Currently I'm not employed.

22 Q. Was there a time when you were
23 employed at Lehman Brothers?

24 A. Yes.

25 Q. Can you give me, sir, just a brief

1 A. KIRK

2 description of the positions you held?

3 How long were you at Lehman?

4 A. I was at Lehman two separate stints.
5 I was at Lehman from December of 1994 until
6 January of 2008.

7 Q. Uh-huh.

8 A. And I returned to Lehman in July of
9 2008. When I went to Lehman Brothers from
10 basically July of -- or, December of 1994 till
11 December 2001, I ran the distressed debt
12 business for Lehman Brothers. From 2002 until
13 2006, I ran the high-yield and leveraged loan
14 business for Lehman Brothers. From 2006 until
15 October of 2007, I ran the global credit
16 businesses. From October 2007 until January of
17 '08, I was co-chief operating officer of fixed
18 income, and from -- and then I left the firm.
19 When I returned, I was global head of principal
20 businesses for that brief period of time.

21 Q. And why did you leave the firm in
22 January of '08?

23 A. The global head of fixed income, Roger
24 Nagioff, had resigned; my partner, Andy Morton,
25 was promoted to head of fixed income; and I

1 A. KIRK

2 reached a mutual agreement to leave the firm
3 with senior -- with the president of Lehman
4 Brothers.

5 Q. And where did you work in between
6 January of '08 and July of '08 when you returned
7 to Lehman?

8 A. Didn't work.

9 Q. And what occasioned your return to
10 Lehman in July of '08?

11 A. They had promoted Bart McDade to be
12 president of the firm, and he requested that I
13 return to the firm within a few days of his
14 elevation.

15 Q. And I take it you worked at Lehman --
16 well, for how long after July of '08 did you
17 work at Lehman Brothers?

18 A. Until the end. Until most of the
19 employees were transferred to Barclays, U.S.
20 employees.

21 Q. And at the end, did you transfer over
22 to Barclays yourself?

23 A. Yes.

24 Q. And when did you start work at
25 Barclays?

1 A. KIRK

2 A. I don't remember the transfer date, to
3 be honest with you. I worked there till the
4 first week of November.

5 Q. First week of November '08?

6 A. Yes.

7 Q. What positions did you hold at
8 Barclays?

9 A. I didn't have a position at Barclays.

10 Q. Was there -- I know it was sort of
11 tumultuous times. Was there any break in
12 between leaving Lehman and going to Barclays, or
13 did you just sort of start working at Barclays
14 at the end of the Lehman --

15 A. Whenever the actual HR records
16 transferred.

17 (The Folloing pages were removed due to their

18 Confidentiality designations:

19 Page 9, Line 17 through Page 20, Line 8 (Highly Confidential);

20 Page 20, Line 9 through Page 55, Line 22 (Confidential);

21 Page 55, Line 23 through Page 60, Line 4 (Highly Confidential);

22 Page 60, Line 5 through Page 66, Line 4 (Confidential);

23 Page 66, Line 5 through Page 78, Line 19 (Highly Confidential);

24 Page 78, Line 20 through Page 83, Line 22 (Confidential);

25 Page 83, Line 23 through Page 114, Line 10 (Highly Confidential);

1 Page 114, Line 11 through Page 123, Line 8 (Confidential);
2 Page 123, Line 9 through Page 129, Line 4 (Highly Confidential);
3 Page 130, Line 8 through Page 133, Line 12 (Confidential);
4 Page 133, Line 13 through Page 153, Line 12 (Highly Confidential);
5 Page 153, Line 13 through Page 161, Line 19 (Confidential);
6 Page 161, Line 20 through Page 171, Line 17 (Highly Confidential);
7 Page 171, Line 18 through Page 215, Line 8 (Confidential).

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14 (Transcript is continued on Pg. 215, Line 9)
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(Time Noted: 3:06 P.M.)

oOo

ALEX KIRK

Subscribed and sworn to
before me this day
of 2009.

1 A. KIRK

2 CERTIFICATE

3 STATE OF NEW YORK)

: ss

4 COUNTY OF NEW YORK)

5 I, Kathy S. Klepfer, a Registered
6 Merit Reporter and Notary Public within and
7 for the State of New York, do hereby
8 certify:

9 That ALEX KIRK, the witness whose
10 deposition is herein before set forth, was
11 duly sworn by me and that such deposition is
12 a true record of the testimony given by such
13 witness.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage and that I am in no way
17 interested in the outcome of this matter.

18 I further certify that neither the
19 deponent nor a party requested a review of
20 the transcript pursuant to Federal Rule of
21 Civil Procedure 30(e) before the deposition
22 was completed.

23 In witness whereof, I have hereunto
24 set my hand this 31st day of August, 2009.

25 -----

A. KIRK

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A. KIRK

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A. KIRK

NAME OF CASE: In re Lehman Brothers

DATE OF DEPOSITION: August 31, 2009

NAME OF WITNESS: Alex Kirk

Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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ALEX KIRK

A. 17

1 M. KLEIN

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.

10 -----X

11 DEPOSITION OF MICHAEL KLEIN

12 New York, New York

13 September 12, 2009

14 Reported by:

15 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

16 JOB NO. 24546

1 M. KLEIN

2 September 12, 2009

3 10:40 a.m.

4
5
6 DEPOSITION of MICHAEL KLEIN, held at
7 Jones Day LLP, 222 East 41st Street,
8 New York, New York, before Kathy S.
9 Klepfer, a Registered Professional
10 Reporter, Registered Merit Reporter,
11 Certified Realtime Reporter, Certified
12 Livenote Reporter, and Notary Public
13 of the State of New York.
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1 M. KLEIN

2
3 A P P E A R A N C E S:
4

5 JONES DAY, LLP

6 Attorneys for Lehman Brothers, Inc.

7 222 East 41st Street

8 New York, New York 10017-6702

9 BY: ROBERT W. GAFFEY, ESQ.

10 BRIDGET CRAWFORD, ESQ.
11

12 BOIES, SCHILLER & FLEXNER, LLP

13 Attorneys for Barclays

14 575 Lexington Avenue - 7th Floor

15 New York, New York 10022

16 BY: JACK G. STERN, ESQ.
17

18 KIRKLAND & ELLIS, LLP

19 Attorneys for the Witness

20 Citigroup Center

21 153 East 53rd Street

22 New York, New York 10022-4611

23 BY: DAVID BERNICK, ESQ.

24 JOHN P. DEL MONACO, ESQ.
25

1 M. KLEIN

2 A P P E A R A N C E S: (Cont'd.)

3
4 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP
5 Attorneys for the Creditors Committee

6 51 Madison Avenue

7 22nd Floor

8 New York, New York 10010

9 BY: JAMES C. TECCE, ESQ.

10
11 JENNER & BLOCK, LLP

12 Attorneys for the Examiner

13 330 N. Wabash Avenue

14 Chicago, Illinois 60611-7603

15 BY: JACOB P. ZIPFEL, ESQ.

16
17 HUGHES, HUBBARD & REED, LLP

18 Attorneys for the SIPA Trustee

19 One Battery Park Plaza

20 New York, New York 10004-1482

21 BY: NEIL J. OXFORD, ESQ.

22 AMINA HASSAN, ESQ.

23
24 Also Present:

25 PHILIP E. KRUSE, Alvarez & Marsal

1 M. KLEIN

2 (the entire transcript has been removed
3 due to its Highly Confidential designation
4 Page 5 line 2 through Page 218 Line 16)
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1 M. KLEIN
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MICHAEL KLEIN

19
20 Subscribed and sworn to
before me this day
21 of 2009.
22
23
24
25

1 M. KLEIN

2 CERTIFICATE

3 STATE OF NEW YORK)

: ss

4 COUNTY OF NEW YORK)

5 I, Kathy S. Klepfer, a Registered
6 Merit Reporter and Notary Public within and
7 for the State of New York, do hereby
8 certify:

9 That MICHAEL KLEIN, the witness whose
10 deposition is herein before set forth, was
11 duly sworn by me and that such deposition is
12 a true record of the testimony given by such
13 witness.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage and that I am in no way
17 interested in the outcome of this matter.

18 I further certify that neither the
19 deponent nor a party requested a review of
20 the transcript pursuant to Federal Rule of
21 Civil Procedure 30(e) before the deposition
22 was completed.

23 In witness whereof, I have hereunto
24 set my hand this 12th day of Sept., 2009.

25 -----

1 M. KLEIN

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M. KLEIN

NAME OF CASE: In re Lehman Brothers Holdings, Inc.

DATE OF DEPOSITION: September 12, 2009

NAME OF WITNESS: Michael Klein

Reason Codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

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A. 18

1 G. LaROCCA

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.

10 -----X

11 DEPOSITION OF GERARD LaROCCA

12 New York, New York

13 August 19, 2009

14
15
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18
19
20
21
22
23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 24292

1 G. LaROCCA

2 August 19, 2009

3 9:30 a.m.

4
5
6 Deposition of GERARD LaROCCA, held at
7 Jones Day, LLP, 222 East 41st Street,
8 New York, New York, before Kathy S.
9 Klepfer, a Registered Professional
10 Reporter, Registered Merit Reporter,
11 Certified Realtime Reporter, Certified
12 Livenote Reporter, and Notary Public
13 of the State of New York.
14
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25

1 G. LaROCCA

2
3 A P P E A R A N C E S:

4 JONES DAY, LLP

5 Attorneys for Lehman Brothers, Inc.

6 222 East 41st Street

7 New York, New York 10017-6702

8 BY: ROBERT W. GAFFEY, ESQ.

9 BART GREEN, ESQ.

10
11 BOIES, SCHILLER & FLEXNER, LLP

12 Attorneys for Barclays Capital

13 and the Witness

14 575 Lexington Avenue - 7th Floor

15 New York, New York 10022

16 BY: JACK G. STERN, ESQ.

17
18 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP

19 Attorneys for the Creditors Committee

20 865 Figueroa Street, 10th Floor

21 Los Angeles, California 90017

22 BY: ERICA P. TAGGART, ESQ.

23
24
25 A P P E A R A N C E S: (Cont'd.)

1 G. LaROCCA

2
3 JENNER & BLOCK, LLP

4 Attorneys for the Examiner

5 330 N. Wabash Avenue

6 Chicago, Illinois 60611-7603

7 BY: ROBERT L. BYMAN, ESQ.

8
9 HUGHES, HUBBARD & REED, LLP

10 Attorneys for the SIPA Trustee

11 1775 I Street, N.W.

12 Washington, DC 20006-2401

13 BY: JOHN F. WOOD, ESQ.

14 FARA TABATABAI, ESQ.

15
16
17 Also Present:

18 PHILIP E. KRUSE, Alvarez & Marsal

1 G. LaROCCA

2 GERARD LaROCCA, called as a

3 witness, having been duly sworn by a Notary

4 Public, was examined and testified as

5 follows:

6 EXAMINATION BY

7 MR. GAFFEY:

8 Q. Mr. LaRocca, good morning. We met

9 briefly before the deposition. I'm Bob Gaffey.

10 I'm with Jones Day and we are special counsel to

11 the estate of Lehman Brothers Holdings, Inc.,

12 and as you know, we have been looking into

13 matters related to the transaction in September

14 of 2008 where Barclays purchased some assets

15 from Lehman and my questions today will be

16 largely about that. But first let me get some

17 background information.

18 Have you been deposed before?

19 A. No, I haven't.

20 (The following portions have been removed due to

21 their Confidentiality designations:

22 Page 5, Line 20 through Page 27, Line 4 (Confidential);

23 Page 27, Line 5 through Page 155, Line 18 (Highly Confidential);

24 Page 155, Line 19 through Page 157, Line 14 (Confidential);

25 Page 157, Line 15 through Page 182, Line 22 (Highly Confidential);

1 G. LaROCCA

2 Page 182, Line 23 through Page 185, Line 18 (Confidential); and
3 Page 185, Line 19 through Page 200, Line 7 (Highly Confidential).
4 professional licenses of any kind?

5
6 the transcript is continued on Page 200, Line 9.)
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1 G. LaROCCA

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8
9 MR. STERN: That's all I have.

10 (Time Noted: 3:02 P.M.)

11 oOo

12
13
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17
18 _____
GERARD LaROCCA

19
20 Subscribed and sworn to
21 before me this day
22 of 2009.
23 _____
24
25

1 G. LaROCCA

2 CERTIFICATE

3 STATE OF NEW YORK)

: ss

4 COUNTY OF NEW YORK)

5 I, Kathy S. Klepfer, a Registered
6 Merit Reporter and Notary Public within and
7 for the State of New York, do hereby
8 certify:

9 That GERARD LaROCCA, the witness whose
10 deposition is herein before set forth, was
11 duly sworn by me and that such deposition is
12 a true record of the testimony given by such
13 witness.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage and that I am in no way
17 interested in the outcome of this matter.

18 I further certify that neither the
19 deponent nor a party requested a review of
20 the transcript pursuant to Federal Rule of
21 Civil Procedure 30(e) before the deposition
22 was completed.

23 In witness whereof, I have hereunto
24 set my hand this 19th day of August, 2009.

25 -----

G. LaROCCA

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G. LaROCCA

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G. LaROCCA

NAME OF CASE: In re Lehman Brothers

DATE OF DEPOSITION: August 19, 2009

NAME OF WITNESS: Gerard LaRocca

Reason Codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

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GERARD LaROCCA

A. 19

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS Case No. 08-13555(JMP)
8 HOLDINGS, INC., et al, (Jointly Administered)
9 Debtors.

10 -----x

11
12
13 DEPOSITION OF IAN LOWITT

14 New York, New York

15 August 20, 2009

16
17 Reported by:

18 MARY F. BOWMAN, RPR, CRR

19 JOB NO. 24043
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August 20, 2009
9:31 a.m.

Deposition of IAN LOWITT, held at
the offices of Jones Day, LLP, 222 East 41st
Street, New York, New York, before Mary F.
Bowman, a Registered Professional Reporter,
Certified Realtime Reporter, and Notary Public
of the State of New York.

APPEARANCES:

JONES DAY, LLP

Attorneys for Lehman Brothers, Inc.

222 East 41st Street

New York, New York 10017-6702

BY: ROBERT GAFFEY, ESQ.

BRIDGET CRAWFORD, ESQ.

BOIES, SCHILLER & FLEXNER, LLP

Attorneys for Barclays and The Witness

5301 Wisconsin Avenue, NW - Suite 800

Washington, DC 20015

BY: HAMISH HUME, ESQ.

WILLKIE FARR & GALLAGHER, LLP

Attorneys for the Witness

1875 K Street NW

Washington DC 20006-1238

BY: RICHARD D. BERNSTEIN, ESQ.

KELLY M. HNATT, ESQ.

APPEARANCES:

QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP

Attorneys for the Creditors Committee

865 Figueroa Street, 10th Floor

Los Angeles, CA 90017

BY: ERICA P. TAGGART, ESQ.

JENNER & BLOCK, LLC

Attorneys for the Examiner

330 N. Wabash Avenue

Chicago, Illinois 60611-7603

BY: ROBERT L. BYMAN, ESQ.

HUGHES, HUBBARD & REED, LLP

Attorneys for the SIPA Trustee

One Battery Park Plaza

New York, New York 10004-1482

BY: NEIL J. OXFORD, ESQ.

JOHN F. WOOD, ESQ.

Also Present:

THOMAS E. HOMMEL, ESQ.

Lehman Brothers Holdings

PHILIP E. KRUSE, Alvarez & Marsal

1
2
3
4
5 IT IS HEREBY STIPULATED AND AGREED, by
6 and between the attorneys for the respective
7 parties herein, that filing and sealing be
8 and the same are hereby waived.

9 IT IS FURTHER STIPULATED AND AGREED
10 that all objections, except as to the form
11 of the question, shall be reserved to the
12 time of the trial.

13
14
15 IT IS FURTHER STIPULATED AND AGREED
16 that the within deposition may be sworn to
17 and signed before any officer authorized to
18 administer an oath, with the same force and
19 effect as if signed and sworn to before the
20 Court.

1 LOWITT

2 IAN LOWITT,

3 called as a witness by the parties,

4 having been duly sworn, testified as

5 follows:

6 EXAMINATION BY

7 MR. GAFFEY:

8 Q. Good morning, Mr. Lowitt. My name is
9 Bob Gaffey. We met briefly before. I am with
10 Jones Day. We're special counsel to the estate of
11 Lehman Brothers Holdings, Inc., and as you
12 probably know, we are looking into issues arising
13 from the transaction in September of 2008 wherein
14 Barclays purchased certain assets of Lehman.

15 I should say to start, I have had a
16 request from my friends at the bottom of the table
17 who have been with us the last couple of days to
18 keep my voice up so they can hear, and I am going
19 to ask you to do the same thing.

20 Have you had your deposition taken
21 before?

22 A. I have not.

23 Q. Just a couple of ground rules. One,
24 try and keep your voice up for everybody. Two,
25 please give me audible answers. The court

1 LOWITT

2 reporter can't take down a nod or a shake of the
3 head. So for the sake of a clear record, please
4 try to do that.

5 If you need a break at any time, say
6 so. If there is a question pending and there is
7 not an issue about whether there's a privilege
8 applying to the question, what I would ask is for
9 an answer to that, and then if you need to, you
10 can step out into the hall and we will take a
11 short break.

12 A. Okay. Thank you.

13 Q. Can you give me a description,
14 Mr. Lowitt, of your education after secondary
15 school?

16 A. I attended the University of
17 Witwatersrand in South Africa, in Johannesburg.

18 MR. BYMAN: I cannot hear you at all.

19 Can you speak up.

20 A. I attended the University of
21 Witwatersrand in Johannesburg, South Africa, did
22 an undergraduate degree in electrical engineering,
23 and then I did a Master's degree in electrical
24 engineering.

25 And then I went to Oxford in England

1 LOWITT

2 and did a PPE, philosophy, politics and economics,
3 and then I did a graduate degree in economics at
4 Oxford.

5 Q. What college at Oxford?

6 A. I was at Merton College.

7 Q. After you took your second degree at
8 Oxford, is that the end of your education?

9 A. That is the end of my education.

10 Q. Do you keep any professional licenses?

11 A. I do not.

12 Q. Have you ever? Series 7, series 23,
13 anything like that?

14 A. No.

15 (The following portions have been removed due to
16 their Confidentiality designations:

17 Page 8, Line 15 through Page 15, Line 3 (Confidential);

18 Page 15, Line 4 through Page 105, Line 24 (Highly Confidential);

19 Page 105, Line 25 through Page 109, Line 11 (Confidential);

20 Page 109, Line 12 through Page 154, Line 12 (Highly Confidential);

21 Page 154, Line 13 through Page 156, Line 17 (Confidential); and

22 Page 156, Line 18 through Page 288, Line 8 (Highly Confidential).

23

24 the transcript is continued on Page 288, Line 9.)

25

1 LOWITT

2
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4
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6
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8
9 (Time noted: 5:51 p.m.)

10
11 _____
12 IAN LOWITT

13
14 Subscribed and sworn to
15 before me this day
16 of August, 2009.

LOWITT

INDEX:

WITNESS

EXAM BY:

PAGE:

I. Lowitt

Mr. Gaffey

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Ms. Taggart

216

Mr. Oxford

248, 285

Mr. Hume

281

EXHIBITS

| Exhibit No. | Marked |
|---------------------------------------------------------------|--------|
| Exhibit 216 document Bates stamped BCI-EX77335 through 37 | 30 |
| Exhibit 217 document Bates stamped BCI-EX00115595 through 654 | 97 |
| Exhibit 218 document Bates stamped 42628 | 146 |
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| Exhibit 221 document Bates stamped 137537 | 154 |
| Exhibit 220 document Bates stamped 10298186 | 161 |
| Exhibit 222 e-mail dated 9/20/2008 at 1:42:32 | 173 |
| Exhibit 223 document Bates stamped 10293506 | 181 |
| Exhibit 224 four-page e-mail dated 9/20/2008 at 6:12 p.m. | 184 |
| Exhibit 225 two-page document Bates stamped 77882 | 189 |
| Exhibit 226 e-mail dated September 21, 2008 at 2:15 p.m. | 199 |
| Exhibit 227 two-page document Bates numbed 70327 | 203 |
| Exhibit 228 e-mail dated 9/21/2008 at 8:09:34 p.m. | 257 |
| Exhibit 229 e-mail dated 9/21/2008 at 6:20:35 p.m. | 260 |
| Exhibit 230 e-mail dated 9/22/2008 at 11:53:18 a.m. | 274 |
| Exhibit 231 document Bates stamped 10254271 (two pages) | 277 |

1 LOWITT

2
3 CERTIFICATE

4 STATE OF NEW YORK)

5)ss:

6 COUNTY OF NEW YORK)

7 I, MARY F. BOWMAN, a Registered
8 Professional Reporter, Certified Realtime
9 Reporter, and Notary Public within and for
10 the State of New York, do hereby certify:

11 That IAN LOWITT, the witness whose
12 deposition is hereinbefore set forth, was
13 duly sworn by me and that such deposition is
14 a true record of the testimony given by such
15 witness.

16 I further certify that I am not
17 related to any of the parties to this action
18 by blood or marriage and that I am in no way
19 interested in the outcome of this matter.

20 In witness whereof, I have hereunto
21 set my hand this 20th day of August, 2009.

22
23 _____
24 MARY F. BOWMAN, RPR, CRR
25

LOWITT

* * *ERRATA SHEET* * *

NAME OF CASE: In Re: Lehman Brothers, Inc.

DATE OF DEPOSITION: 8/20/09

NAME OF WITNESS: Ian Lowitt

Reason codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

Page ____ Line ____ Reason____

From _____ to_____

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Page ____ Line ____ Reason____

From _____ to_____

IAN LOWITT

A. 20

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al.,

(Jointly Administered)

9
10 Debtors.
11
12
13 -----X

14 DEPOSITION OF BART McDADE

15 New York, New York

16 September 2, 2009
17
18
19
20
21
22

23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 24045

1 B. McDADE

2 September 2, 2009

3 9:57 a.m.

4
5
6 Deposition of BART McDADE, held at Jones Day, LLP,
7 222 East 41st Street, New York,
8 New York, before Kathy S. Klepfer, a
9 Registered Professional Reporter,
10 Registered Merit Reporter, Certified
11 Realtime Reporter, Certified Livenote
12 Reporter, and Notary Public of the State
13 of New York.

1 B. McDADE

2
3 A P P E A R A N C E S:
4

5 JONES DAY, LLP

6 Attorneys for Lehman Brothers, Inc.

7 222 East 41st Street

8 New York, New York 10017-6702

9 BY: ROBERT W. GAFFEY, ESQ.

10 BART GREEN, ESQ.
11

12 BOIES, SCHILLER & FLEXNER, LLP

13 Attorneys for Barclays Capital

14 5301 Wisconsin Avenue, NW

15 Washington, DC 20015

16 BY: HAMISH HUME, ESQ.
17

18 WILLIAMS & CONNOLLY, LLP

19 Attorneys for the Witness

20 725 12th Street, NW

21 Washington, DC 20005

22 BY: JOHN J. BUCKLEY, ESQ.

23 JAMES WEINGARTEN, ESQ.
24
25

1 B. McDADE

2 A P P E A R A N C E S: (Cont'd.)

3
4 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP

5 Attorneys for the Creditors Committee

6 865 S. Figueroa Street, 10th Floor

7 Los Angeles, California 90017

8 BY: ERICA P. TAGGART, ESQ.

9
10 JENNER & BLOCK, LLC

11 Attorneys for the Examiner

12 330 N. Wabash Avenue

13 Chicago, Illinois 60611-7603

14 BY: ROBERT L. BYMAN, ESQ.

15
16 HUGHES, HUBBARD & REED, LLP

17 Attorneys for the SIPA Trustee

18 One Battery Park Plaza

19 New York, New York 10004-1482

20 BY: WILLIAM R. MAGUIRE, ESQ.

21 AMINA HASSAN, ESQ.

22
23 Also Present:

24 THOMAS E. HOMMEL

25 RAJESH ANKALKOTI

1 B. McDADE

2 BART McDADE, called as a
3 witness, having been duly sworn by a Notary
4 Public, was examined and testified as
5 follows:

6 EXAMINATION BY

7 MR. GAFFEY:

8 Q. Good morning, Mr. McDade. We met
9 briefly before. As you know, I'm Bob Gaffey.

10 A. Good morning.

11 Q. I'm from Jones Day and we are special
12 counsel to the estate of Lehman Brothers
13 Holdings, Inc. and, as I hope you know, we are
14 charged with looking into some matters relating
15 to the transaction in September of 2008 where
16 assets were transferred from Lehman to Barclays,
17 and that will be the subject of my questions
18 this morning.

19 Just a couple of ground rules, which
20 you either know or have been told, but let me
21 review them. If you need a break at any time,
22 just say so, and if there's a question pending,
23 I would ask that the question be answered and
24 then take whatever break you want. Just speak
25 up when that's convenience whenever you think

1 B. McDADE

2 you need a break.

3 I have a habit of becoming a fast
4 talker. I try and slow it down when I'm going
5 this long, but if I'm speaking too quickly, tell
6 me, and if you don't understand me in any way,
7 tell me and I'll try and rephrase the question
8 so you do. And I'll ask, if you can, try and
9 wait for me to ask a complete question before
10 you answer it for the sake of the court
11 reporter. That will make it easier for Kathy
12 here and make for a cleaner record.

13 A. Okay, I understand.

14 Q. Have you had your deposition taken
15 before?

16 A. No, I have not.

17 Q. How are you currently employed?

18 A. I am unemployed.

19 Q. And prior to being unemployed, what
20 was your last job?

21 A. My last job was a small stint at
22 Barclays Capital.

23 Q. When did you work at Barclays Capital?

24 A. The end of the week of September 22nd
25 through till December 31st of 2008.

1 B. McDADE

2 Q. Prior to that you were employed by
3 Lehman Brothers, correct?

4 A. Correct.

5 Q. How long were you at Lehman Brothers?

6 A. I was a summer intern from 1979;
7 full-time employee from 1983.

8 Q. I'm not going to ask you to go through
9 the whole 1993 --

10 A. Thank you.

11 Q. -- but if you can give me an idea of
12 what you were -- maybe just give me a summary of
13 positions you held in the last three years
14 before September of 2008.

15 A. Sure. The job I held from early 2000
16 until 2005 was the global head of fixed income.
17 From 2005 till June of 2008, I was global head
18 of equities. From 2008 until I left to go to
19 Barclays, I was the president of Lehman
20 Brothers.

21 Q. Okay. Did you leave the firm at any
22 time during that period or were you continuously
23 employed?

24 A. No, I did not.

25 Q. And why did you leave Barclays?

1 B. McDADE

2 A. I left Barclays -- I went to Barclays
3 to help the transaction's integration. I left
4 Barclays -- that was the sole purpose of going
5 to Barclays. Therefore, when I thought my
6 responsibilities with that integration were
7 done, I left Barclays.

8 Q. From the outset, had that been the
9 plan, that you would go there for the
10 integration, stay a short period of time, and
11 then leave?

12 A. Yes.

13 (The following portions have been removed due to their
14 Confidentiality designations:

15 Page 8, Line 13 through Page 29, Line 12 (Confidential);

16 Page 29, Line 13 through Page 32, Line 13 (Highly Confidential);

17 Page 32, Line 14 through Page 41, Line 8 (Confidential);

18 Page 41, Line 9 through Page 50, Line 18 (Highly Confidential);

19 Page 50, Line 19 through Page 54, Line 13 (Confidential);

20 Page 54, Line 14 through Page 119, Line 18 (Highly Confidential);

21 Page 119, Line 19 through Page 125, Line 21 (Confidential);

22 Page 125, Line 22 through Page 157, Line 9 (Highly Confidential);

23 Page 157, Line 10 through Page 161, Line 18 (Confidential);

24 Page 161, Line 19 through Page 164, Line 12 (Highly Confidential);

25 Page 164, Line 13 through Page 170, Line 23 (Confidential);

1 Page 170, Line 24 through Page 171, Line 25 (Highly Confidential);
2 Page 172, Line 2 through Page 174, Line 17 (Confidential);
3 Page 174, Line 18 through Page 191, Line 5 (Highly Confidential);
4 Page 191, Line 6 through Page 194, Line 17 (Confidential);
5 Page 194, Line 18 through Page 222, Line 2 (Highly Confidential);
6 Page 222, Line 3 through Page 232, Line 19 (Confidential);
7 Page 232, Line 20 through Page 272, Line 10 (Highly Confidential);
8 Page 272, Line 11 through Page 274, Line 6 (Confidential);
9 Page 274, Line 7 through Page 285, Line 13 (Highly Confidential);
10 Page 285, Line 14 through Page 302, Line 5 (Confidential).
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16 (Transcript is continued on Page 302, Line 6)
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(Time Noted: 4:45 P.M.)

oOo

BART McDADE

Subscribed and sworn to
before me this day
of 2009.

1 B. McDADE

2 CERTIFICATE

3 STATE OF NEW YORK)

: ss

4 COUNTY OF NEW YORK)

5 I, Kathy S. Klepfer, a Registered
6 Merit Reporter and Notary Public within and
7 for the State of New York, do hereby
8 certify:

9 That BART McDADE, the witness whose
10 deposition is herein before set forth, was
11 duly sworn by me and that such deposition is
12 a true record of the testimony given by such
13 witness.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage and that I am in no way
17 interested in the outcome of this matter.

18 I further certify that neither the
19 deponent nor a party requested a review of
20 the transcript pursuant to Federal Rule of
21 Civil Procedure 30(e) before the deposition
22 was completed.

23 In witness whereof, I have hereunto
24 set my hand this 2nd day of September, 2009.

25 -----

1 B. McDADE

2 INDEX

3 WITNESS: EXAMINATION BY PAGE

4 B. McDADE Mr. Gaffey 5, 296

5 Ms. Taggart 232

6 Mr. Maguire 271

7 Mr. Hume 285

8
9 EXHIBITS: PAGE

10 Exhibit 335, a document bearing Bates 196

11 Nos. BCI-EX-(S)-50261

12 Exhibit 336, handwritten calculation 205

13

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B. McDADE

NAME OF CASE: In re Lehman Brothers

DATE OF DEPOSITION: September 2, 2009

NAME OF WITNESS: Bart McDade

Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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BART McDADE

A. 21

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

In Re: Chapter 11
5 LEHMAN BROTHERS Case No. 08-13555 (JMP)
HOLDINGS, INC., et al., (Jointly Administered)
6 -----)

7
8
9 DEPOSITION OF HUGH McGEE

10 New York, New York

11 Monday, August 10, 2009
12
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20 Reported by:

FRANCIS X. FREDERICK, CSR, RPR, RMR

21 JOB NO. 24038
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August 10, 2009
10:00 a.m.

Deposition of HUGH McGEE, held at the offices
of Jones Day, 222 East 41st Street, New York,
New York, pursuant to Notice, before Francis
X. Frederick, a Certified Shorthand Reporter,
Registered Merit Reporter and Notary Public
of the States of New York and New Jersey.

A P P E A R A N C E S:

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Attorneys for Lehman Brothers, Inc.

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BY: ROBERT W. GAFFEY, ESQ.

BRIDGET CRAWFORD, ESQ.

SIMPSON THACHER & BARTLETT

Attorneys for the Witness

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New York, New York 10017

BY: MICHAEL CHEPIGA, ESQ.

CHRISTOPHER J. LUCHT, ESQ.

BOISE SCHILLER & FLEXNER, LLP

Attorneys for Barclays Capital

575 Lexington Avenue - 7th Floor

New York, New York 10022

BY: JACK G. STERN, ESQ.

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QUINN, EMANUEL, URQUHART, OLIVER &
HEDGES, LLP

Attorneys for the Creditors Committee

865 S. Figueroa Street, 10th Floor

Los Angeles, California 90017

BY: ERICA P. TAGGART, ESQ.

HUGHES, HUBBARD & REED, LLP

Attorneys for the SIPA Trustee

One Battery Park Plaza

New York, New York 10004-1482

BY: SETH D. ROTHMAN, ESQ.

SAMUEL C. MCCOUBREY, ESQ.

- and -

HUGHES, HUBBARD & REED, LLP

1175 I Street, N.W.

Washington, D.C. 20006-2401

BY: JOHN F. WOOD, ESQ.

1
2 A P P E A R A N C E S: (Cont'd.)

3 JENNER & BLOCK, LLC

4 Attorneys for the Examiner

5 330 N. Wabash Avenue

6 Chicago, Illinois 60611-7603

7 BY: ROBERT L. BYMAN, ESQ.

8
9
10 ALSO PRESENT:

11 RAJESH ANKALKOTI, Alvarez & Marsal
12
13
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16
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1 PROCEEDINGS

2 (Witness sworn.)

3 MR. STERN: I'll just state on the
4 record our standing agreement concerning
5 confidentiality. The transcript will be
6 marked as highly confidential and within
7 a week of receiving the transcript we
8 will make appropriate designations under
9 the confidentiality stipulation.

10 MR. GAFFEY: And that's agreed.

11 * * *

12 H U G H M c G E E, called as a witness,
13 having been duly sworn by a Notary
14 Public, was examined and testified as
15 follows:

16 EXAMINATION BY

17 MR. GAFFEY:

18 Q. Good morning, Mr. McGee. My name
19 is Bob Gaffey. I'm with Jones Day. And we're
20 special counsel to the estate of Lehman
21 Brothers Holdings, Inc. We met briefly before
22 the deposition.

23 Can you give me an idea, Mr.
24 McGee, of your background at -- well, first
25 let me cover your educational background.

1 H. McGEE

2 You're a graduate of Princeton; is
3 that correct?

4 A. That's correct.

5 Q. What year did you graduate?

6 A. 1981.

7 Q. And you also graduated law school
8 from the University of Texas?

9 A. That's correct.

10 Q. When did you graduate from there?

11 A. 1984.

12 Q. And do you keep an active license
13 to practice law in any jurisdiction?

14 A. No.

15 Q. Could you give briefly a
16 description of your employment after your
17 graduation from law school.

18 A. Sure. I went to work in Houston,
19 Texas for the law firm Andrews & Kurth as an
20 associate in the corporate and securities
21 department working primarily on corporate
22 finance transactions, some M&A transactions,
23 with a client base that was largely
24 energy-based. Had exposure to a number of
25 investment banks through the course of that

1 H. McGEE

2 activity. Was asked by First Boston to
3 consider a career change. After the second
4 time that they asked, which was due to that
5 they had a young person leave, I moved to New
6 York City in late 1986, kind of beginning of
7 '87, and switched careers and became an
8 investment banker for First Boston in their
9 energy M&A department. Stayed there until
10 June of 1989 at which time I left to join
11 Wasserstein Perella which was a split-off from
12 First Boston. Stayed with Wasserstein Perella
13 through early 1993 when at such time the two
14 named partners of that firm were starting to
15 have some disagreements. And I joined Lehman
16 Brothers at that time as a senior vice
17 president heading up their Houston office
18 focused primarily on energy.

19 Over time built up the Houston
20 office, became a managing director, ran the
21 energy group, ran the energy and power group
22 globally, both of those. Then in December of
23 '02 the then head of investment banking had
24 been promoted up within Lehman Brothers and
25 they asked me to assume the job of global head

1 H. McGEE

2 of investment banking which I was in that role
3 through the end of Lehman Brothers.

4 Q. And who did you replace as head of
5 investment banking?

6 A. A guy by the name of Brad Jack.

7 Q. Okay. I'd ask you, Mr. McGee,
8 just answer this question yes or no, please.
9 Did you review any documents to prepare for
10 your deposition testimony today?

11 A. I was shown some documents.

12 Q. Okay. Did any of the documents
13 you were shown have the effect of refreshing
14 your recollection about the events of the week
15 of September 15th, 2008?

16 A. To a limited extent, yes.

17 Q. Could you tell me what those
18 documents were?

19 A. I was shown some e-mail and I
20 think that's all. I was shown some e-mail
21 documents.

22 Q. Do you have a better recollection
23 of what the content of the e-mails was rather
24 than just e-mails? What were they about, what
25 were their dates, what can you remember about

1 H. McGEE

2 those?

3 A. They were generally dated during
4 the period of time that you're referring to.

5 Q. Okay.

6 A. But I can't -- I mean, we looked
7 at different e-mails. I can't recall.

8 Q. Okay.

9 A. I'd be happy to address any
10 particular ones.

11 Q. Okay. We'll be showing you some
12 e-mails as we go through the day.

13 A. Okay.

14 Q. Have you -- other than lawyers,
15 have you spoken to anyone to prepare for your
16 deposition today?

17 A. No.

18 Q. Have you spoken to anyone whose
19 deposition has been taken in connection with
20 this proceeding? Mr. Berkenfeld, Shapiro, Mr.
21 Felder?

22 A. Well, I speak with them in the
23 normal course of business but not about this
24 topic.

25 (The following portions have been removed due to their

H. McGEE

Confidentiality designations:

Page 10, Line 25 through Page 24, Line 3 (Highly Confidential);

Page 24, Line 4 through Page 25, Line 19 (Confidential);

Page 25, Line 20 through Page 69, Line 4 (Highly Confidential);

Page 69, Line 5 through Page 71, Line 8 (Confidential);

Page 71, Line 9 through Page 92, Line 21 (Highly Confidential);

Page 92, Line 22 through Page 98, Line 12 (Confidential);

Page 98, Line 13 through Page 111, Line 3 (Highly Confidential);

Page 111, Line 4 through Page 114, Line 19 (Confidential); and

Page 114, Line 20 through Page 153, Line 12 (Highly Confidential)

The transcript is continued on Page 153, Line 13)

1 H. McGEE
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3
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5
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9
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11
12

13 (Time Noted: 2:18 p.m.)
14
15
16
17
18

19 _____
20 HUGH E. McGEE, III
21

22 Subscribed and sworn to before me
23 this ____ day of _____, 2009.
24
25 _____

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, FRANCIS X. FREDERICK, a Notary
Public within and for the State of New
York, do hereby certify:

That HUGH E. McGEE, III, the
witness whose deposition is hereinbefore
set forth, was duly sworn by me and that
such deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 10th day of
August, 2009.

FRANCIS X. FREDERICK

----- I N D E X -----

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| | MR. ROTHMAN | 141 |

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DIRECTIONS: NONE

RULINGS: NONE

TO BE FURNISHED: NONE

REQUESTS: NONE

MOTIONS: NONE

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NAME OF CASE: IN RE: LEHMAN BROTHERS

DATE OF DEPOSITION: AUGUST 10TH, 2009

NAME OF WITNESS: HUGH E. MCGEE, III

Reason codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

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From _____ to _____

HUGH E. MCGEE, III

A. 22

1 D. PETRIE

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.

10 -----X

11 DEPOSITION OF DAVID PETRIE

12 New York, New York

13 August 26, 2009

14 Reported by:

15 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

16 JOB NO. 24293

1 D. PETRIE

2 August 26, 2009

3 9:29 a.m.

4
5
6 Deposition of DAVID PETRIE, held at
7 Jones Day LLP, 222 East 41st Street,
8 New York, New York, before Kathy S.
9 Klepfer a Registered Professional
10 Reporter Registered Merit Reporter,
11 Certified Realtime Reporter, Certified
12 Livenote Reporter, and Notary Public
13 of the State of New York.
14
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1 D. PETRIE

2
3 A P P E A R A N C E S:

4 JONES DAY, LLP

5 Attorneys for Lehman Brothers, Inc.

6 222 East 41st Street

7 New York, New York 10017-6702

8 BY: JAYANT W. TAMBE, ESQ.

9 TERRY McMAHON, ESQ.

10
11 BOIES, SCHILLER & FLEXNER, LLP

12 Attorneys for Barclays and the Witness

13 5301 Wisconsin Avenue, N.W.

14 Washington, D.C. 20015

15 BY: JONATHAN M. SHAW, ESQ.

16
17 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP

18 Attorneys for the Creditors Committee

19 865 S. Figueroa Street, 10th Floor

20 Los Angeles, California 90017

21 BY: THOMAS O'BRIEN, ESQ. (By telephone)

1 D. PETRIE

2 A P P E A R A N C E S: (Cont'd.)

3
4 JENNER & BLOCK, LLP

5 Attorneys for the Examiner

6 330 N. Wabash Avenue

7 Chicago, Illinois 60611-7603

8 BY: VINCENT LAZAR, ESQ.

9
10 HUGHES, HUBBARD & REED, LLP

11 Attorneys for the SIPA Trustee

12 1775 I Street, N.W.

13 Washington, D.C. 20006-2401

14 BY: JOHN F. WOOD, ESQ.

15
16
17 Also Present:

18 RAJESH ANKALKOTI, Alvarez & Marsal

1 D. PETRIE

2 DAVID PETRIE, called as a
3 witness, having been duly sworn by a Notary
4 Public, was examined and testified as
5 follows:

6 EXAMINATION BY

7 MR. TAMBE:

8 Q. Good morning, Mr. Petrie. My name is
9 Jay Tambe. I work with the law firm of Jones
10 Day. We're special counsel to Lehman Brothers
11 Holdings, Inc. With me is my colleague Terry
12 McMahon.

13 I'll let the other lawyers around the
14 table introduce themselves to you and then we'll
15 go through some preliminary matters. Okay?

16 MR. WOOD: I'm John Wood from Hughes
17 Hubbard, and we represent the SIPA Trustee.

18 MR. ANKALKOTI: Rajesh Ankalkoti with
19 Alvarez & Marsal.

20 MR. LAZAR: Vince Lazar. I'm
21 representing the Examiner.

22 MR. SHAW: And Jonathan Shaw with
23 Boies, Schiller & Flexner on behalf of
24 Barclays.

25 MR. TAMBE: And on the phone we have?

1 D. PETRIE

2 MR. O'BRIEN: On the phone is Tom
3 O'Brien from Quinn Emanuel representing the
4 Creditors Committee.

5 BY MR. TAMBE:

6 Q. Mr. Petrie, have you ever given a
7 deposition before?

8 A. No, I have not.

9 Q. Okay. Basic rules: I'm going to ask
10 you a series of questions about the
11 Lehman/Barclays transaction and what role, if
12 any, you may have played in that transaction.

13 If you have any trouble understanding
14 my question, let me know. I'll rephrase it.
15 You have to give your answers vocally, no nods
16 of the head, et cetera. She's writing down
17 everything you say, so yeses, nos. I'm happy to
18 clarify any question.

19 (The following portions have been removed due to
20 their Confidentiality designations:

21 Page 6, Line 19 through Page 10, Line 16 (Confidential);
22 Page 10, Line 17 through Page 11, Line 5 (Highly Confidential);
23 Page 11, Line 6 through Page 23, Line 2 (Confidential); and
24 Page 23, Line 3 through Page 168, Line 5 (Highly Confidential).
25 the transcript is continued on Page 168, Line 6.)

1 D. PETRIE

2
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5
6 MR. WOOD: I have no further
7 questions.

8 MR. LAZAR: Nothing.

9 MR. SHAW: Anything from Quinn
10 Emanuel?

11 MR. O'BRIEN: No questions from me.

12 MR. TAMBE: Thank you very much.

13 (Time noted: 3:55 P.M.)

14 oOo

15
16
17
18 _____
DAVID PETRIE

19
20 Subscribed and sworn to
21 before me this day
22 of 2009.
23 _____
24
25

1 D. PETRIE

2 CERTIFICATE

3 STATE OF NEW YORK)

: ss

4 COUNTY OF NEW YORK)

5 I, Kathy S. Klepfer, a Registered
6 Merit Reporter and Notary Public within and
7 for the State of New York, do hereby
8 certify:

9 That DAVID PETRIE, the witness whose
10 deposition is herein before set forth, was
11 duly sworn by me and that such deposition is
12 a true record of the testimony given by such
13 witness.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage and that I am in no way
17 interested in the outcome of this matter.

18 I further certify that neither the
19 deponent nor a party requested a review of
20 the transcript pursuant to Federal Rule of
21 Civil Procedure 30(e) before the deposition
22 was completed.

23 In witness whereof, I have hereunto
24 set my hand this 26th day of August, 2009.

25 -----

D. PETRIE

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D. PETRIE

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D. PETRIE

NAME OF CASE: In re Lehman Brothers

DATE OF DEPOSITION: August 26, 2009

NAME OF WITNESS: David Petrie

Reason Codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

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DAVID PETRIE

A. 23

1 R. RICCI

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.

10 -----X

11 DEPOSITION OF RICH RICCI

12 New York, New York

13 September 8, 2009

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23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 24547

1 R. RICCI

2 September 8, 2009

3 9:56 a.m.

4
5
6 Deposition of RICH RICCI, held at Jones Day,
7 LLP, 222 East 41st Street, New York,
8 New York, before Kathy S. Klepfer,
9 a Registered Professional Reporter,
10 Registered Merit Reporter, Certified
11 Realtime Reporter, Certified Livenote
12 Reporter, and Notary Public of the
13 State of New York.

1 R. RICCI

2 A P P E A R A N C E S:

3 JONES DAY, LLP

4 Attorneys for Lehman Brothers, Inc.

5 222 East 41st Street

6 New York, New York 10017-6702

7 BY: DAVID L. CARDEN, ESQ.

8 JENNIFER DEL MEDICO, ESQ.

9 BART GREEN, ESQ.

10
11 BOIES, SCHILLER & FLEXNER, LLP

12 Attorneys for Barclays and the Witness

13 5301 Wisconsin Avenue, NW

14 Washington, DC 20015

15 BY: HAMISH HUME, ESQ.

16 JONATHAN D. SCHILLER, ESQ.

17 LOUIS SMITH, ESQ.

18
19 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP

20 Attorneys for the Creditors Committee

21 51 Madison Avenue

22 22nd Floor

23 New York, New York 10010

24 BY: ERIC M. KAY, ESQ.

25

1 R. RICCI

2 A P P E A R A N C E S: (Cont'd.)

3 JENNER & BLOCK, LLC

4 Attorneys for the Examiner

5 330 N. Wabash Avenue

6 Chicago, Illinois 60611-7603

7 BY: DAVID C. LAYDEN, ESQ.

8
9 HUGHES, HUBBARD & REED, LLP

10 Attorneys for the SIPA Trustee

11 One Battery Park Plaza

12 New York, New York 10004-1482

13 BY: WILLIAM R. MAGUIRE, ESQ.

14 KENNETH E. LEE, ESQ.

15 FARA TABATABAI, ESQ.

16
17
18
19 Also Present:

20 RAJESH ANKALKOTI, Alvarez & Marsal

21

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25

1 R. RICCI

2 (The entire transcript has been removed due to
3 it's Highly Confidential designation: Page 5, Line 2
4 through Page 292, Line 4)

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(Time Noted: 5:34 P.M.)

oOo

RICH RICCI

Subscribed and sworn to
before me this day
of 2009.

1 R. RICCI

2 CERTIFICATE

3 STATE OF NEW YORK)

: ss

4 COUNTY OF NEW YORK)

5 I, Kathy S. Klepfer, a Registered
6 Merit Reporter and Notary Public within and
7 for the State of New York, do hereby
8 certify:

9 That RICH RICCI, the witness whose
10 deposition is herein before set forth, was
11 duly sworn by me and that such deposition is
12 a true record of the testimony given by such
13 witness.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage and that I am in no way
17 interested in the outcome of this matter.

18 I further certify that neither the
19 deponent nor a party requested a review of
20 the transcript pursuant to Federal Rule of
21 Civil Procedure 30(e) before the deposition
22 was completed.

23 In witness whereof, I have hereunto
24 set my hand this 8th day of September, 2009.

25 -----

R. RICCI

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1 R. RICCI

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| 8 | Pertaining to Exchange-Traded Derivatives | |
| 9 | and Exchange Deposits | |

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R. RICCI

NAME OF CASE: In re Lehman Brothers

DATE OF DEPOSITION: September 8, 2009

NAME OF WITNESS: Rich Ricci

Reason Codes:

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2. To conform to the facts.
3. To correct transcription errors.

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A. 24

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

In Re: Chapter 11
5 LEHMAN BROTHERS Case No. 08-13555 (JMP)
HOLDINGS, INC., et al., (Jointly Administered)
6 -----)

7
8
9 DEPOSITION OF GARY ROMAIN
10 New York, New York
11 Thursday, September 10, 2009
12
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14
15
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19

20 Reported by:
FRANCIS X. FREDERICK, CSR, RPR, RMR
21 JOB NO. 24298
22
23
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25

1
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4
5 September 10, 2009

6 9:42 a.m.
7
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9

10 Deposition of GARY ROMAIN, held at the offices of
11 Jones Day, 222 East 41st Street, New
12 York, New York, pursuant to Notice,
13 before Francis X. Frederick, a Certified
14 Shorthand Reporter, Registered Merit
15 Reporter, and Notary Public of the
16 States of New York and New Jersey.
17
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A P P E A R A N C E S:

JONES DAY, LLP

Attorneys for Lehman Brothers, Inc.

222 East 41st Street

New York, New York 10017-6702

BY: JAYANT W. TAMBE, ESQ.

TERRY McMAHON, ESQ.

BOIES, SCHILLER & FLEXNER, LLP

Attorneys for Barclays Capital

and the Witness

5301 Wisconsin Avenue N. W.

Washington D.C. 20015

BY: JONATHAN M. SHAW, ESQ.

LOUIS SMITH, ESQ.

QUINN, EMANUEL, URQUHART, OLIVER &

HEDGES, LLP

Attorneys for the Creditors Committee

865 S. Figueroa Street, 10th Floor

Los Angeles, California 90017

BY: SOYUN ROE, ESQ. (via telephone)

1
2
3 A P P E A R A N C E S: (Cont'd.)

4 JENNER & BLOCK, LLC

5 Attorneys for the Examiner

6 330 N. Wabash Avenue

7 Chicago, Illinois 60611-7603

8 BY: JACOB P. ZIPFEL, ESQ.

9
10 HUGHES, HUBBARD & REED, LLP

11 Attorneys for the SIPA Trustee

12 1775 I Street, N.W.

13 Washington D.C. 20006-2401

14 BY: JOHN F. WOOD, ESQ.

15 SAMUEL C. McCOUBREY, ESQ.

16
17
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19
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21
22
23
24 ALSO PRESENT:

25 RAJESH ANKALKOTI, Alvarez & Marsal

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2 (The entire transcript has been removed due to
3 it's Highly Confidential designation: Page 5, Line 2
4 through Page 253, Line 9)
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10 (Time Noted: 5:21 p.m.)

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GARY ROMAIN

21

22 Subscribed and sworn to before me

23 this ____ day of _____, 2009.

24

25

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, FRANCIS X. FREDERICK, a Notary
Public within and for the State of New
York, do hereby certify:

That GARY ROMAIN, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that
such deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 10th day of
September, 2009.

FRANCIS X. FREDERICK

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| WITNESS | EXAMINATION BY | PAGE |
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| | MR. SHAW | 247 |

----- INFORMATION REQUESTS -----

DIRECTIONS: NONE

RULINGS: NONE

TO BE FURNISHED: NONE

REQUESTS: NONE

MOTIONS: NONE

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NAME OF CASE: LEHMAN BROTHERS

DATE OF DEPOSITION: SEPTEMBER 10, 2009

NAME OF WITNESS: GARY ROMAIN

Reason codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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GARY ROMAIN

A. 25

1 M. Shapiro

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.

10 -----X

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12
13 DEPOSITION OF MARK J. SHAPIRO

14 New York, New York

15 August 7, 2009

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23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 24036

1 M. Shapiro

2 August 7, 2009

3 9:30 a.m.

4
5
6 Deposition of MARK J. SHAPIRO, held at Jones
7 Day, LLP, 222 East 41st Street, LLP,
8 New York, New York, before Kathy S.
9 Klepfer, a Registered Professional
10 Reporter, Registered Merit Reporter,
11 Certified Realtime Reporter, Certified
12 Livenote Reporter, and Notary Public
13 of the State of New York.
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24
25

1 M. Shapiro

2
3 A P P E A R A N C E S:
4

5 JONES DAY, LLP

6 Attorneys for Lehman Brothers, Inc.

7 222 East 41st Street

8 New York, New York 10017-6702

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10 KELLY A. CARRERO, ESQ.

11 JENNIFER DEL MEDICO, ESQ.
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13 BOIES, SCHILLER & FLEXNER, LLP

14 Attorneys for Barclays and the Witness

15 575 Lexington Avenue - 7th Floor

16 New York, New York 10022

17 BY: JACK G. STERN, ESQ.
18
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24
25

1 M. Shapiro

2 A P P E A R A N C E S: (Cont'd.)

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5 Attorneys for the Creditors Committee

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16 HUGHES, HUBBARD & REED, LLP

17 Attorneys for the SIPA Trustee

18 1775 I Street, N.W.

19 Washington, DC 20006-2401

20 BY: JOHN F. WOOD, ESQ.

21 SAMUEL C. MCCOUBREY, ESQ.

22
23 Also Present:

24 THOMAS E. HOMMEL, Lehman Brothers

25 PHILIP E. KRUSE, Alvarez & Marsal

1 M. Shapiro

2 MARK J. SHAPIRO, called as a
3 witness, having been duly sworn by a Notary
4 Public, was examined and testified as
5 follows:

6 EXAMINATION BY

7 MR. CARDEN:

8 Q. Good morning, Mr. Shapiro.

9 A. Good morning.

10 Q. My name is David Carden. I represent
11 the Lehman estate as their special counsel and
12 my colleagues with me here are Jen Del Medico
13 and Kelly Carrero. And I think we'll go around
14 the table and identify ourselves for your
15 benefit, although I think you'll probably know
16 several of these people.

17 MR. WOOD: I'm John Wood from Hughes,
18 Hubbard & Reed, and we represent the Trustee
19 under the Security Investors Protection Act.

20 MR. MCCOUBREY: I'm Sam McCoubrey,
21 also from Hughes, Hubbard & Reed, and we
22 represent the Trustee.

23 MS. TAGGART: Erica Taggart with Quinn
24 Emanuel for the Committee.

25 MR. HOMMEL: Tom Hommel with Lehman

1 M. Shapiro

2 Brothers.

3 MR. KRUSE: Philip Kruse with Alvarez
4 & Marsal.

5 MR. LAYDEN: David Layden, Jennifer &
6 Block, on behalf of the Examiner.

7 MR. STERN: Jack Stern, Boies,
8 Schiller & Flexner, for Barclays Capital and
9 the witness.

10 MR. CARDEN: I hate housekeeping
11 matters since I don't typically do well with
12 them, but last time you and I spoke, Jack,
13 we decided that we would do exhibits in
14 chunks like this and I'm told this is not
15 the way we decided to go, in our -- my
16 absence, anyway.

17 So what I want to do today is try to
18 use the exhibits that have previously been
19 marked, to the extent possible, obviously,
20 and if not, I'm going to put an A on the end
21 of any exhibits that I use so that we know
22 that the deposition that is occurring right
23 here is different than the one that is
24 occurring next door of one of your
25 colleagues.

1 M. Shapiro

2 So, is that fair enough?

3 MR. STERN: Yes. And I also think we
4 had a general agreement with Mr. Gaffey
5 yesterday concerning our treatment of
6 confidentiality designations and that that
7 would be done as it was done for Mr.
8 Felder's deposition.

9 MR. CARDEN: Okay.

10 BY MR. CARDEN:

11 Q. Would you please state your name, Mr.
12 Shapiro?

13 A. Mark J. Shapiro.

14 Q. By whom are you presently employed?

15 A. Barclays Capital.

16 Q. And what's your position there?

17 A. I am the head of Restructuring and
18 Finance within the Investment Banking Division.

19 Q. Okay. And just generally what does
20 that entail?

21 A. It entails running a group of 16
22 bankers that are dedicated to working on matters
23 that involve stress and distressed companies,
24 either working for companies, working for
25 creditors, and sometimes financing companies

1 M. Shapiro

2 that are either in or out of bankruptcy.

3 Q. Stating the obvious, you're a lawyer,
4 are you not?

5 A. I was a lawyer.

6 Q. Well, once a lawyer, always lawyer,
7 don't you think?

8 A. I don't think I have to comment on
9 that.

10 Q. What you're saying is you're not
11 practicing law now?

12 A. I'm not practicing and I don't have a
13 license to practice.

14 Q. But you do have a law degree, correct?

15 A. I graduated from law school, yes.

16 Q. And in the past you were a practicing
17 lawyer, were you not?

18 A. Correct. I was a partner at Shearman
19 & Sterling.

20 Q. At some point you were employed by
21 Lehman Brothers, correct?

22 A. Starting in September of 2002.

23 Q. What was your position when you first
24 joined Lehman Brothers?

25 A. Co-head of Restructuring within

1 M. Shapiro

2 Investment Banking in Lehman Brothers.

3 Q. And what generally were your
4 responsibilities in that position? Are they the
5 same as they presently are with Barclays?

6 A. Essentially the same. We were more, a
7 little bit more focused on the advisory practice
8 and less focused on financing, now we're a
9 little more balanced, as we went through Lehman,
10 if you're talking about 2002 versus later, I
11 think that was your question --

12 Q. Yes.

13 A. -- as of the date we started.

14 Q. Okay. And did your position remain
15 the same throughout your entire tenure at Lehman
16 Brothers?

17 A. It changed in I guess it was spring or
18 summer -- spring of 2008, something like that.
19 I can't remember exactly when. It was decided
20 within the firm that it made sense to spend more
21 time on financing than we had before, and in
22 order to effectuate that, we basically created a
23 joint venture between Investment Banking and
24 Fixed Income where my group was basically a
25 joint venture and to do both. And as a result

1 M. Shapiro

2 of that, I was asked to head the whole thing and
3 so my position went from co-head to head of the
4 group.

5 Q. When did that happen?

6 A. I can't remember exactly. I think it
7 was the spring of -- spring of '08, but I don't
8 remember exactly.

9 Q. And to whom did you report in that
10 position?

11 A. So I reported to two different people
12 within the firm, Mark Shafir, who was the head
13 of M&A from the banking side and Paul Parker,
14 who was his co-head. I mean, if you're talking
15 about at the end versus along the way --

16 Q. Yes.

17 A. Because obviously things changed.

18 Q. As fascinating as that would be for
19 both of us to go through, my focus is really
20 going to be obviously at the end.

21 A. And then on the fixed income side, it
22 was -- it was Jim Seery, who ran loan sales and
23 trading for fixed income.

24 Q. I'm sorry, I just missed the import of
25 that. Did you report to him on that side or --

1 M. Shapiro

2 A. Yeah, well, when we say report, this
3 was a new thing, so it was a joint venture
4 between the two divisions. I was running the
5 joint venture. Jim was on the fixed income
6 side, so he was responsible from fixed income
7 for that and, effectively, you know, I wouldn't
8 say I was reporting to him in the sense of, you
9 know, he never obviously gave me reviews or
10 comp, because what happened was that that all
11 really came to fruition, as I said,
12 spring/summer.

13 Obviously it was a tough general
14 summer overall. There wasn't a lot of
15 financings going on in, you know, within Lehman
16 in terms of the distressed area that I was in
17 until call it towards the end of the summer when
18 we worked on Tronox. So it was all kind of
19 information.

20 So when you say reporting, there
21 wasn't a whole lot to report to.

22 Q. Now, in your position as head of
23 Restructuring at Lehman, did you become
24 acquainted with how the business sides really
25 function, by that I mean how they ran a matched

1 M. Shapiro

2 book, how they did their business?

3 A. No, I would say that, you know, on the
4 investment -- you know, the firm is set up
5 within three divisions: Investment Banking,
6 Fixed Income and Equities. So if you're on the
7 banking side, you really are not part --
8 participating in any way on the trading side
9 where they're dealing with things around how
10 they -- how they buy, sell or finance assets.
11 So not really.

12 Q. And you did not become acquainted even
13 in the most general sense as to how they did
14 their business as a consequence of the position
15 you had at Lehman?

16 MR. STERN: Objection to the form.

17 A. Yeah, I'm not sure I understand your
18 question.

19 Q. Do you understand what a matched book
20 is?

21 A. If you're talking about where a party
22 purchases an asset and then finances that asset
23 with liability that they, you know, borrowed
24 money, if that's what you would call a matched
25 book, or a series of those assets together being

1 M. Shapiro

2 a matched book, I guess that would maybe
3 constitute a matched book, but it's not a term I
4 use frequently.

5 Q. Okay. But in using that term in the
6 way you defined it, you are generally acquainted
7 with how a matched book works, correct?

8 A. Just to the extent I just described
9 it.

10 Q. Okay. All right. And as a
11 consequence of your position at Lehman, did you
12 become acquainted with the fact that, on the
13 trading side, Lehman ran a matched book?

14 A. Not really.

15 Q. Not news to you today, though, right?

16 A. Today I wouldn't say it's news to me,
17 but I would say during my, you know, seven years
18 at Lehman, I really didn't give thought to how
19 Lehman financed itself.

20 Q. Okay. Now I brought a prop today,
21 which is a calendar from September of 2008,
22 which I brought to the last deposition and I was
23 responsible for. This is something to which you
24 can refer if you wish. I don't think we're
25 going to mark it. Time is what it is and

1 M. Shapiro

2 everybody knows exactly what days of the week
3 we're going to be referring to.

4 But what I would like to do is direct
5 your attention to the week of September 8 last
6 fall.

7 A. Uh-huh.

8 Q. And at some point during that week
9 Lehman Brothers entered into negotiations with B
10 of A with regard to the sale of the firm,
11 correct?

12 A. I don't know.

13 (The following portions have been removed due to their
14 Confidentiality designations:

15 Page 14, Line 13 through Page 24, Line 14 (Highly Confidential);

16 Page 24, Line 15 through Page 30, Line 14 (Confidential);

17 Page 30, Line 15 through Page 41, Line 2 (Highly Confidential);

18 Page 41, Line 3 through Page 50, Line 6 (Confidential);

19 Page 50, Line 7 through Page 83, Line 6 (Highly Confidential);

20 Page 83, Line 7 through Page 93, Line 9 (Confidential);

21 Page 93, Line 10 through Page 157, Line 25 (Highly Confidential);

22 Page 158, Line 1 through Page 167, Line 15 (Confidential);

23 Page 167, Line 16 through Page 169, Line 20 (Highly Confidential);

24 Page 169, Line 21 through Page 174, Line 16 (Confidential);

25 Page 174, Line 17 through Page 182, Line 17 (Highly Confidential);

Page 182, Line 18 through Page 187, Line 21 (Confidential);

Page 187, Line 22 through Page 233, Line 4 (Highly Confidential).

(Transcript is continued on Pg. 233, Line 5)

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5 MS. TAGGART: That's all my questions.
6 Thank you.

7 MR. STERN: Anybody else?

8 MR. CARDEN: You're a free man.

9 MR. STERN: I think were done.

10 THE WITNESS: Okay, thanks.

11 (Time Noted: 2:42 P.M.)

12 oOo
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MARK J. SHAPIRO

18
19 Subscribed and sworn to
20 before me this day
21 of 2009.
22
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1 M. Shapiro

2 CERTIFICATE

3 STATE OF NEW YORK)

4 : ss

5 COUNTY OF NEW YORK)

6 I, Kathy S. Klepfer, a Registered
7 Merit Reporter and Notary Public within and
8 for the State of New York, do hereby
9 certify:

10 That MARK J. SHAPIRO, the witness
11 whose deposition is herein before set forth,
12 was duly sworn by me and that such
13 deposition is a true record of the testimony
14 given by such witness.

15 I further certify that I am not
16 related to any of the parties to this action
17 by blood or marriage and that I am in no way
18 interested in the outcome of this matter.

19 I further certify that neither the
20 deponent nor a party requested a review of
21 the transcript pursuant to Federal Rule of
22 Civil Procedure 30(e) before the deposition
23 was completed.

24 In witness whereof, I have hereunto
25 set my hand this 7th day of August, 2009.

1 M. Shapiro

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M. Shapiro

NAME OF CASE: In re Lehman Brothers Holding

DATE OF DEPOSITION: August 7, 2009

NAME OF WITNESS: Mark J. Shapiro

Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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A. 26

PAOLO TONUCCI

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re:

Chapter 11

LEHMAN BROTHERS Case No. 08-13555(JMP)
HOLDINGS, INC. et al., (Jointly Administered)

Debtors.

DEPOSITION OF PAOLO TONUCCI

Friday 14 August 2009

At: 7:00 am

Taken at:

Jones Day

21 Tudor Street

London

United Kingdom

Reported by: AILSA WILLIAMS

Certified LiveNote Reporter

PAOLO TONUCCI

2

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Also Present:

PHILIP E. KRUSE, Alvarez & Marsal

PAOLO TONUCCI

3

I N D E X

PAOLO TONUCCI5

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PAOLO TONUCCI

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1 PAOLO TONUCCI

2 PAOLO TONUCCI

3 Having been sworn,

4 Testified as follows

5 DIRECT EXAMINATION BY MR. TAMBE:

6 MR. TAMBE : Morning, Mr. Tonucci. We
7 met this morning. My name is Jay Tambe with Jones
8 Day, representing the Lehman Brothers Holdings
9 Estate. I will have counsel introduce themselves
10 to you and then we will get started.

11 MS CRAWFORD: Bridget Crawford from
12 Jones Day.

13 MR. MAGUIRE: Bill Maguire, Hughes,
14 Hubbard & Reed for the Trustee.

15 MR. BUNTING: Matthew Bunting, Quinn,
16 Emanuel, Urquhart, Oliver & Hedges for the
17 Creditors Committee and on the phone Erica
18 Taggart, also Quinn, Emanuel, Urquhart, Oliver &
19 Hedges.

20 MR. KRUSE: Phil Kruse with Alvarez &
21 Marsal on behalf of the LBHI Estate.

22 MR. LUCHT: Christopher Lucht, Simpson
23 Thacher & Bartlett, on behalf of the witness in
24 his individual capacity.

25 MR. HUME: Hamish Hume from Boies,

1 PAOLO TONUCCI 6

2 Schiller & Flexner representing Barclays.

3 MR. TAMBE: Erica, can you hear us?

4 MS TAGGART: Yes, thank you.

5 (The following portions have been removed due to their

6 Confidentiality designations:

7 Page 6, Line 5 through Page 14, Line 19 (Confidential);

8 Page 14, Line 20 through Page 204, Line 10 (Highly Confidential);

9 Page 204, Line 11 through Page 205, Line 19 (Confidential); and

10 Page 205, Line 20 through Page 218, Line 5 (Highly Confidential)

11

12 The transcript is continued on Page 218, Line 6.)

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1 PAOLO TONUCCI

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6 MR. HUME: Are you intending to finish
7 today? You only have three minutes until
8 2 o'clock.

9 MR. MAGUIRE : I am not going to finish
10 in three minutes. I think we are going to go
11 a bit beyond that. It might actually be feasible
12 but definitely not within the next three minutes
13 or probably the next 30 minutes.

14 MR. HUME: Do the Creditors Committee
15 still expect to have questions?

16 MR. BUNTING: 45 minutes estimate. I
17 think realistically, if you need to go today,
18 rather than try and compress into the time you
19 don't have an hour and a quarter, on the basis of
20 the commitment that you have made that you be
21 available at a time approximate to the Claxton
22 deposition in London.

23 MR. HUME: That would seem to be
24 a convenient time for those of us coming over from
25 the US.

1 PAOLO TONUCCI

2 MR. BUNTING: As long as we don't get
3 into an argument about getting time then that is
4 fine by us.

5 THE WITNESS: My only concern is that we
6 don't have another very extended, unnecessarily
7 extended session, but I am happy to within reason
8 of course.

9 MR. HUME: With the understanding that
10 it will not be a full day, it will be something to
11 accommodate the time, roughly half an hour,
12 roughly 45 minutes, maybe a little bit more time
13 but not a full day, a couple of hours, I think we
14 can make the commitment, and I believe the witness
15 will be around in London that week, perhaps on the
16 3rd.

17 THE WITNESS: Yes.

18 MR. HUME: You can check your calendar
19 to confirm 100 percent. We can tentatively plan
20 for perhaps the afternoon or the morning of the
21 3rd.

22 MR. BUNTING: That is good for us.

23 MR. MAGUIRE : We may have to make
24 arrangements, not sure I can make it back,
25 arrangements either by phone or somebody

1 PAOLO TONUCCI

2 substituting, but we will work that out.

3 MR. BUNTING: We will probably have the
4 same arrangement as today with Erica on the phone
5 and myself in person.

6 MR. HUME: So we will agree to leave the
7 deposition open on that basis.

8 MR. MAGUIRE: That is fine.

9 MR. TAMBE: Thank you.

10 (Deposition concluded for the day at 2:00 pm.)

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PAOLO TONUCCI

221

CERTIFICATE OF DEPONENT

I, Paolo Tonucci, hereby certify that I have read
the foregoing pages, numbered 1 through 223, of my
deposition of testimony taken in these proceedings
on Friday, 14 August 2009, and, with the exception
of the changes listed on the next page and/or
corrections, if any, find them to be a true and
accurate transcription thereof.

Signed:

Name: Paolo Tonucci

Date:

PAOLO TONUCCI

222

CERTIFICATE OF COURT REPORTER

I, AILSA WILLIAMS, an Accredited LiveNote Reporter for TSG Reporting, hereby certify that the testimony of the witness Paolo Tonucci in the foregoing transcript, numbered pages 1 through 223, taken on Friday, 14 August 2009 was recorded by me in machine shorthand and was thereafter transcribed by me; and that the foregoing transcript is a true and accurate verbatim record of the said testimony.

I further certify that I am not a relative, employee, counsel or financially involved with any of the parties to the within cause, nor am I an employee or relative of any counsel for the parties, nor am I in any way interested in the outcome of the within cause.

Signed:

AILSA WILLIAMS

Dated: August 14, 2009

PAOLO TONUCCI

223

E R R A T A

Deposition of Paolo Tonucci

| Page/Line No. | Description | Reason for change |
|---------------|-------------|----------------------|
|---------------|-------------|----------------------|

Signed:

Name: Paolo Tonucci

Date:

A. 27

1

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re:

Chapter 11

LEHMAN BROTHERS Case No. 08-13555(JMP)
HOLDINGS, INC. et al., (Jointly Administered)

Debtors.

DEPOSITION OF JOHN VARLEY

Thursday, September 3, 2009

At: 12:00 pm

Taken at:

Barclays

1 Churchill Place

London

United Kingdom

Reported by: AILSA WILLIAMS

Certified LiveNote Reporter

JOHN VARLEY

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Also Present:

PHILIP E. KRUSE: Alvarez & Marsal

GREG BARDEN: Jones Day

DEBORAH COOPER: Barclays

JOHN VARLEY

3

I N D E X

| | |
|-----------------------------------------|-----|
| JOHN VARLEY | ..4 |
| DIRECT EXAMINATION BY MR. TAMBE: .. . | ..4 |
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1 JOHN VARLEY

2 JOHN VARLEY

3 Having been duly sworn,

4 Testified as follows:

5 DIRECT EXAMINATION BY MR. TAMBE:

6 MR. TAMBE: Good afternoon, Mr. Varley.

7 My name is Jay Tambe with the law firm of Jones
8 Day, special counsel to Lehman Brothers Holdings
9 Inc. With me is my colleague, Bridget Crawford.

10 I will let the other attorneys and folks
11 down the table introduce themselves to you on the
12 record and then we will get started.

13 MR. WOOD: John Wood, from the law firm
14 Hughes, Hubbard & Reed, and we represent the
15 SIPA Trustee.

16 MR. BUNTING: Matthew Bunting from
17 Quinn, Emanuel, Urquhart, Oliver & Hedges
18 representing Creditors Committee.

19 MR. KRUSE: Phil Kruse with Alvarez &
20 Marsal on behalf of the LBHI estate.

21 MR. SHAW: Jonathan Shaw, Boies,
22 Schiller & Flexner, on behalf of Barclays and
23 Mr. Varley.

24 MS COOPER: Deborah Cooper, Head of
25 Group Litigation, Barclays.

1 JOHN VARLEY

5

2 MR. TAMBE: We understand we have some
3 time constraints here. I think we have a total of
4 3 hours of your time and while reserving all of
5 our rights we want to make the best use of that
6 time.

7 What I would like to pose to you this
8 afternoon are a series of questions about the
9 Barclays/Lehman transaction and get your best
10 recollection and show you some documents and
11 discuss some documents with you. Is that fair?

12 A. It is.

13 (The following portions were removed due to their
14 Confidentiality designations:

15 Page 5, Line 13 through Page 14, Line 24 (Confidential);

16 Page 14, Line 25 through Page 37, Line 15 (Highly Confidential);

17 Page 37, Line 16 through Page 43, Line 8 (Confidential);

18 Page 43, Line 9 through Page 48, Line 3 (Highly Confidential);

19 Page 48, Line 4 through Page 50, Line 14 (Confidential);

20 Page 50, Line 15 through Page 60, Line 3 (Highly Confidential);

21 Page 60, Line 4 through Page 71, Line 7 (Confidential);

22 Page 71, Line 8 through Page 88, Line 4 (Highly Confidential);

23 Page 88, Line 5 through Page 90, Line 9 (Confidential);

24 Page 90, Line 10 through Page 91, Line 15 (Highly Confidential);

25 Page 91, Line 16 through Page 92, Line 12 (Confidential);

Page 92, Line 13 through Page 119, Line 21 (Highly Confidential).

(Transcript is continued on Page 119, Line 22)

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22 (End of Deposition)

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JOHN VARLEY

120

CERTIFICATE OF DEPONENT

I, John Varley, hereby certify that I have read
the foregoing pages, numbered 1 through 122, of my
deposition of testimony taken in these proceedings
on 3 September, 2009, and, with the exception of
the changes listed on the next page and/or
corrections, if any, find them to be a true and
accurate transcription thereof.

Signed:

Name: John Varley

Date:

JOHN VARLEY

121

CERTIFICATE OF COURT REPORTER

I, AILSA WILLIAMS, an Accredited LiveNote Reporter with European Deposition Services, London, England, hereby certify that the testimony of the witness John Varley in the foregoing transcript, numbered pages 1 through 122, taken on 3 September, 2009 was recorded by me in machine shorthand and was thereafter transcribed by me; and that the foregoing transcript is a true and accurate verbatim record of the said testimony.

I further certify that I am not a relative, employee, counsel or financially involved with any of the parties to the within cause, nor am I an employee or relative of any counsel for the parties, nor am I in any way interested in the outcome of the within cause.

Signed:

AILSA WILLIAMS

Dated: 9/3/2009

JOHN VARLEY

122

E R R A T A

Deposition of John Varley

| Page/Line No. | Description | Reason for |
|---------------|-------------|------------|
| change | | |

Signed:

Name: John Varley

Date:

A. 28

1 J. VARLEY

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.

10 -----x

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12
13 CONTINUED DEPOSITION OF JOHN VARLEY (TELEPHONIC)

14 New York, New York

15 September 11, 2009

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23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 24300

1 J. VARLEY

2 September 11, 2009

3 9:05 a.m.

4
5
6 CONTINUED deposition of JOHN VARLEY, held
7 at Jones Day, LLP, 222 East 41st Street,
8 New York, New York, before Kathy S.
9 Klepfer, a Registered Professional
10 Reporter, Registered Merit Reporter,
11 Certified Realtime Reporter, Certified
12 Livenote Reporter, and Notary Public
13 of the State of New York.
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1 J. VARLEY

2
3 A P P E A R A N C E S:

4 JONES DAY, LLP

5 Attorneys for Lehman Brothers, Inc.

6 222 East 41st Street

7 New York, New York 10017-6702

8 BY: JAYANT W. TAMBE, ESQ.

9 BART GREEN, ESQ.

10
11 BOIES, SCHILLER & FLEXNER, LLP

12 Attorneys for Barclays and the Witness

13 575 Lexington Avenue - 7th Floor

14 New York, New York 10022

15 BY: JACK G. STERN, ESQ.

16
17 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP

18 Attorneys for the Creditors Committee

19 16 Old Bailey

20 London, United Kingdom EC4M 7EG

21 BY: MATTHEW BUNTING, ESQ. (Via telephone)

1 J. VARLEY

2 A P P E A R A N C E S: (Cont'd.)

3 HUGHES, HUBBARD & REED, LLP

4 Attorneys for the SIPA Trustee

5 1775 I Street, N.W.

6 Washington, D.C. 20006-2401

7 BY: JOHN WOOD, ESQ.

8
9
10 Also Present:

11 PHILIP E. KRUSE, Alvarez & Marsal

12 DEBORAH COOPER, Barclays (Via Telephone)

13 PAUL LOFTUS, Barclays (Via telephone)

1 J. VARLEY

2 (The entire transcript has been removed
3 due to its Highly Confidential designation: Page 127,
4 Line 2 through Page 167 Line 11)
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1 J. VARLEY
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12 (Time Noted: 10:01 A.M.)
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18 _____
JOHN VARLEY
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20 Subscribed and sworn to
21 before me this day
22 of 2009.
23
24
25

1 J. VARLEY

2 CERTIFICATE

3 STATE OF NEW YORK)

: ss

4 COUNTY OF NEW YORK)

5 I, Kathy S. Klepfer, a Registered
6 Merit Reporter and Notary Public within and
7 for the State of New York, do hereby
8 certify:

9 That JOHN VARLEY, the witness whose
10 deposition is herein before set forth, was
11 duly sworn by me and that such deposition is
12 a true record of the testimony given by such
13 witness.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage and that I am in no way
17 interested in the outcome of this matter.

18 I further certify that neither the
19 deponent nor a party requested a review of
20 the transcript pursuant to Federal Rule of
21 Civil Procedure 30(e) before the deposition
22 was completed.

23 In witness whereof, I have hereunto
24 set my hand this 11th day of September,
25 2009.

J. VARLEY

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Schiller with attached document bearing

Bates Nos. BCI-EX-166277 through 166348

J. VARLEY

NAME OF CASE: In re Lehman Brothers Holdings., Inc.

DATE OF DEPOSITION: September 11, 2009

NAME OF WITNESS: John Varley

Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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A. 29

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

In Re: Chapter 11
5 LEHMAN BROTHERS Case No. 08-13555 (JMP)
HOLDINGS, INC., et al., (Jointly Administered)
6 -----)

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8
9 DEPOSITION OF JASEN YANG
10 New York, New York
11 Friday, September 4, 2009
12
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20 Reported by:
FRANCIS X. FREDERICK, CSR, RPR, RMR
21 JOB NO. 24621
22
23
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4
5 September 4, 2009

6 9:36 a.m.
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9

10 Deposition of JASEN YANG, held at the offices
11 of Jones Day, 222 East 41st Street, New York, New
12 York, pursuant to Notice, before Francis
13 X. Frederick, a Certified Shorthand
14 Reporter, Registered Merit Reporter and
15 Notary Public of the States of New York
16 and New Jersey.
17
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A P P E A R A N C E S:

JONES DAY, LLP

Attorneys for Lehman Brothers, Inc.

222 East 41st Street

New York, New York 10017-6702

BY: WILLIAM J. HINE, ESQ.

GEORGE E. SPENCER, ESQ.

BOIES SCHILLER & FLEXNER, LLP

Attorneys for Barclays Capital

575 Lexington Avenue - 7th Floor

New York, New York 10022

BY: JACK G. STERN, ESQ.

HUGHES, HUBBARD & REED, LLP

Attorneys for the SIPA Trustee

One Battery Park Plaza

New York, New York 10004-1482

BY: SAMUEL C. MCCOUBREY, ESQ.

ALSO PRESENT:

INGRID M. CHRISTIAN, Alvarez & Marsal

1 J. YANG

2 J A S E N Y A N G, called as a witness,
3 having been duly sworn by a Notary
4 Public, was examined and testified as
5 follows:

6 EXAMINATION BY

7 MR. HINE:

8 Q. Good morning, Mr. Yang.

9 A. Good morning.

10 Q. My name is -- we met off the
11 record but my name is Bill Hine and I'm with
12 the firm of Jones Day and we are special
13 counsel to the Creditors Committee -- I'm
14 sorry, to the estate of Lehman Brothers
15 Holdings, Inc. in connection with this
16 bankruptcy proceeding so we're taking some
17 discovery with respect to that. And this
18 deposition here is what's called a 30(b)(6)
19 deposition and you've been designated by
20 Barclays as a deponent for a couple select
21 topics which we'll go over in a little bit.

22 A. Um-hum.

23 Q. Have you ever been deposed before?

24 A. No, I have not.

25 Q. Okay. So I'm sure your counsel

1 J. YANG

2 has advised you of the ground rules but
3 basically I'm going to ask you some questions.
4 You're going to give me some answers to the
5 best you can. My one request is that sometime
6 during the deposition I will undoubtedly ask a
7 misleading question or use a word improperly
8 or one of your technical terms that you folks
9 use. Please correct me, ask me to clarify it.
10 I want to ask you clear questions so you can
11 give me clear answers. So if we can agree on
12 that we can probably get started.

13 MR. STERN: Yes. I'll just note
14 for the record that the two topics are
15 first topic 4 which is a person with
16 knowledge of the calculations shown on
17 the e-mail of BCI 000580; and topic 5,
18 the marking process to take place the
19 afternoon of Friday, September 19th,
20 2008, referenced in BCI 000878 and
21 BCI-EX-00012161.

22 BY MR. HINE:

23 Q. And I will be asking you questions
24 about those topics but also some general
25 questions around those topics.

1 J. YANG

2 MR. HINE: So we do reserve our
3 rights to conduct the deposition of Mr.
4 Yang in his personal capacity if the
5 need ever arises.

6 But in that vein why don't we
7 enter as the first exhibit the
8 deposition notice.

9 MR. SPENCER: Previously marked.

10 BY MR. HINE:

11 Q. Okay. Mr. Yang, I'm handing you a
12 copy of a document previously marked as
13 Exhibit 81B from which your counsel was
14 reading, I believe. I just wanted to point
15 out to you topics 4 and 5 on page 3.

16 A. Um-hum.

17 Q. Do you see them?

18 A. Yes, I do.

19 Q. You understand that you've been
20 designated by Barclays as the witness to speak
21 on those topics?

22 A. Yes.

23 Q. Okay. Did you prepare for your
24 deposition at all today?

25 A. Maybe.

1 J. YANG

2 Q. What does that mean?

3 MR. STERN: Yes. He met --

4 A. Yes. The short answer is yes. I
5 didn't know if the question was today or...

6 Q. Okay. Fair enough.

7 Did you conduct any investigations
8 or factual reviews in preparation for your
9 deposition on those two topics?

10 A. Yeah. I took a look at some of
11 the e-mails that came across my desk around
12 that time.

13 Q. Okay. Anything else?

14 A. No. Just review of personal -- of
15 my e-mails.

16 Q. Okay. Did you meet with counsel
17 in preparation for today's deposition?

18 A. Yes, I did.

19 Q. Okay. Did you review any
20 documents with counsel?

21 A. Yes, I did.

22 Q. Did any of those documents refresh
23 your recollection about either of these two
24 topics?

25 A. Yes.

1 J. YANG

2 (The following portions are removed due to their confidentiality
3 designations:

4 Page 8, Line 2 through Page 52, Line 13 (Highly Confidential);

5 Page 52, Line 14 through Page 57, Line 19 (Confidential);

6 Page 57, Line 20 through Page 63, Line 14 (Highly Confidential);

7 Page 63, Line 15 through Page 65, Line 17 (Confidential);

8 Page 65, Line 18 through Page 113, Line 19 (Highly Confidential);

9 Page 113, Line 20 through Page 116, Line 10 (Confidential);

10 Page 116, Line 11 through Page 121, Line 3 (Highly Confidential).

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19 (The Transcript continues on Page 121, Line 4)
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(Time Noted: 11:39 a.m.).

JASEN YANG

Subscribed and sworn to before me
this ____ day of _____, 2009.

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, FRANCIS X. FREDERICK, a Notary
Public within and for the State of New
York, do hereby certify:

That JASEN YANG, the witness whose
deposition is hereinbefore set forth,
was duly sworn by me and that such
deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 4th day of
September, 2009.

FRANCIS X. FREDERICK

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----- I N D E X -----

| WITNESS | EXAMINATION BY | PAGE |
|------------|----------------|------|
| JASEN YANG | MR. HINE | 4 |
| | MR. MCCOUBREY | 118 |

----- INFORMATION REQUESTS -----

DIRECTIONS: 33
RULINGS: NONE
TO BE FURNISHED: NONE
REQUESTS: NONE
MOTIONS: NONE

----- EXHIBITS -----

EXHIBIT FOR ID.

Exhibit 349B

document bearing production

numbers BCI-EX-00070958

through BCI-EX-00070961..... 52

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document bearing production

numbers BCI-EX-00012161

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NAME OF CASE: LEHMAN BROTHERS

DATE OF DEPOSITION: SEPTEMBER 4, 2009

NAME OF WITNESS: LEHMAN BROTHERS

Reason codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

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JASEN YANG